

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JASON KALCHBRENNER,

Plaintiff,

v.

BENTON COUNTY CORRECTIONS,
STEVE KEANE, JOHN LAW and
MR. BELL,

Defendants.

NO: 13-CV-5131-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT

1915(g)

Magistrate Judge Hutton issued a Report and Recommendation to Dismiss Complaint for failure to state a claim upon which relief may be granted on February 24, 2014. Plaintiff, a prisoner at the Coyote Ridge Corrections Center, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

Although granted the opportunity to do so, Plaintiff filed no objections.

There being no objections and for the reasons set forth by the Magistrate Judge, **IT IS ORDERED** the Report and Recommendation (ECF No. 8) is

ORDER ADOPTING REPORT AND RECOMMENDATION AND
DISMISSING COMPLAINT -- 1

1 **ADOPTED in its entirety** and the Complaint (ECF No. 6) is **DISMISSED with**
2 **prejudice** pursuant 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

3 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
4 brings three or more civil actions or appeals which are dismissed as frivolous or for
5 failure to state a claim will be precluded from bringing any other civil action or
6 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious
7 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the new**
8 **statutory provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's**
9 **complaint may count as one of the three dismissals allowed by 28 U.S.C. §**
10 **1915(g) and may adversely affect his ability to file future claims.**

11 Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken *in forma*
12 *pauperis* if the trial court certifies in writing that it is not taken in good faith.” The
13 good faith standard is satisfied when an individual “seeks appellate review of any
14 issue not frivolous.” *See Coppedge v. United States*, 369 U.S. 438, 445 (1962).
15 For purposes of 28 U.S.C. § 1915, an appeal is frivolous if it lacks any arguable
16 basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The Court
17 finds that any appeal of this Order would not be taken in good faith and would lack
18 any arguable basis in law or fact. Accordingly, Plaintiff’s *in forma pauperis* status
19 is hereby revoked.

IT IS HEREBY ORDERED:

1. The District Court Executive is directed to enter this Order, enter Judgment, forward copies to Plaintiff at his last known address, and **CLOSE** the file.
2. The District Court Executive is further directed to forward a copy of this Order to the Office of the Attorney General of Washington, Criminal Justice Division.
3. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith and would lack any arguable basis in law or fact. Accordingly, the Court hereby revokes Plaintiff's *in forma pauperis* status.

DATED March 17, 2014.



Thomas O. Rice
THOMAS O. RICE
United States District Judge